

(iii) The location to which the participant is transferred or discharged, if any;

(iv) A statement that the participant has the right to appeal the action to the State official responsible for the oversight of State Veterans Home programs; and

(v) The name, address and telephone number of the State long-term care ombudsman.

(7) *Orientation for transfer or discharge.* The program management must provide sufficient preparation and orientation to participants to ensure safe and orderly transfer or discharge from the program.

(c) *Equal access to quality care.* The program management must establish and maintain identical policies and practices regarding transfer, discharge, and the provision of services for all individuals regardless of source of payment.

(d) *Enrollment policy.* The program management must not require a third party guarantee of payment to the program as a condition of enrollment or expedited enrollment, or continued enrollment in the program. However, program management may require a participant or an individual who has legal access to a participant's income or resources to pay for program care from the participant's income or resources, when available.

(e) *Hours of operation.* Each adult day health care program must provide at least 8 hours of operation five days a week. The hours of operation must be flexible and responsive to caregiver needs.

(f) *Caregiver support.* The adult day health care program must develop a Caregiver Program which offers mutual support, information and education.

(Authority: 38 U.S.C. 101, 501, 1741–1743)

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900–0160)

§ 52.90 Participant behavior and program practices.

(a) *Restraints.* (1) The participant has a right to be free from any chemical or physical restraints imposed for purposes of discipline or convenience. When a restraint is applied or used, the

purpose of the restraint is reviewed and is justified as a therapeutic intervention and documented in the participant's clinical record.

(i) Chemical restraint is the inappropriate use of a sedating psychotropic drug to manage or control behavior.

(ii) Physical restraint is any method of physically restricting a person's freedom of movement, physical activity or normal access to his or her body.

(2) The program management uses a system to achieve a restraint-free environment.

(3) The program management collects data about the use of restraints.

(4) When alternatives to the use of restraint are ineffective, restraint is safely and appropriately used.

(b) *Abuse.* (1) The participant has the right to be free from mental, physical, sexual, and verbal abuse or neglect, corporal punishment, and involuntary seclusion.

(i) Mental abuse includes humiliation, harassment, and threats of punishment or deprivation.

(ii) Physical abuse includes hitting, slapping, pinching, kicking or controlling behavior through corporal punishment.

(iii) Sexual abuse includes sexual harassment, sexual coercion, and sexual assault.

(iv) Neglect is any impaired quality of life for an individual because of the absence of minimal services or resources to meet basic needs. Neglect may include withholding or inadequately providing food and hydration, clothing, medical care, and good hygiene. It also includes placing the individual in unsafe or unsupervised conditions.

(v) Involuntary seclusion is a participant's separation from other participants against his or her will or the will of his or her legal representative.

(2) [Reserved]

(c) *Staff treatment of participants.* The program management must develop and implement written policies and procedures that prohibit mistreatment, neglect, and abuse of participants and misappropriation of participant property.

(1) The program management must—

(i) Not employ individuals who—

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(A) Have been found guilty of abusing, neglecting, or mistreating individuals by a court of law; or

(B) Have had a finding entered into an applicable State registry or with the applicable licensing authority concerning abuse, neglect, mistreatment of individuals or misappropriation of their property; and

(ii) Report any knowledge it has of actions by a court of law against an employee, which would indicate unfitness for service as a program assistant or other program staff to the State oversight agency director and licensing authorities.

(2) The program management must ensure that all alleged violations involving mistreatment, neglect, or abuse, including injuries of unknown source, and misappropriation of participant property are reported immediately to the State oversight agency director and to other officials in accordance with State law through established procedures.

(3) The program management must have evidence that all alleged violations are thoroughly investigated, and must prevent potential abuse while the investigation is in progress.

(4) The results of all investigations must be reported to the State oversight agency director or the designated representative and to other officials in accordance with State law within five working days of the incident, and appropriate corrective action must be taken if the alleged violation is verified.

(Authority: 38 U.S.C. 101, 501, 1741-1743)

(The Office of Management and Budget has approved the information collection requirements in this paragraph under control number 2900-0160)

§ 52.100 Quality of life.

Program management must provide an environment and provide or coordinate care that supports the quality of life of each participant by maximizing the individual's potential strengths and skills.

(a) *Dignity.* The program management must promote care for participants in a manner and in an environment that maintains or enhances each participant's dignity and respect in full recognition of his or her individuality.

(b) *Self-determination and participation.* The participant has the right to—

(1) Choose activities, schedules, and health care consistent with his or her interests, assessments, and plans of care;

(2) Interact with members of the community both inside and outside the program; and

(3) Make choices about aspects of his or her life in the program that are significant to the participant.

(c) *Participant and family concerns.* The program management must document any concerns submitted to the management of the program by participants or family members.

(1) A participant's family has the right to meet with families of other participants in the program.

(2) Staff or visitors may attend participant or family meetings at the group's invitation.

(3) The program management must respond to written requests that result from group meetings.

(4) The program management must listen to the views of any participant or family group and act upon the concerns of participants and families regarding policy and operational decisions affecting participant care in the program.

(d) *Participation in other activities.* A participant has the right to participate in social, religious, and community activities that do not interfere with the rights of other participants in the program.

(e) *Therapeutic participant activities.*

(1) The program management must provide for an ongoing program of activities designed to meet, in accordance with the comprehensive assessment, the interests and the physical, mental, and psychosocial well being of each participant.

(2) The activities program must be directed by a qualified professional who is a qualified therapeutic recreation specialist or an activities professional who—

(i) Is licensed, if applicable, by the State in which practicing; and

(ii) Is certified as a therapeutic recreation specialist or an activities professional by a recognized certifying body.